

Appendix E: University Authority

The authority of the University of California to govern its affairs is derived from Art. IX, Sec. 9 of the California Constitution. In particular, the state Constitution created the University and conferred broad powers of self-governance upon The Regents:

“Sec. 9 (a). The University of California shall constitute a public trust, to be administered by the existing corporation known as “The Regents of the University of California,” with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the term of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services.”

Art. IX, Sec. 9 (f) further provides broad powers and duties upon The Regents:

“The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, ... all real and personal property for the benefit of the university or incidentally to its conduct.... Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. “

In light of the broad delegation of authority to The Regents by the state Constitution, it is clear that The Regents have power to make and adopt rules and regulations to govern the affairs of the University. Moreover, The Regents may expressly delegate their power to administrative bodies within the University to manage the daily affairs of the University. The broad authority of the University to manage its own affairs and to adopt policies and procedures which govern the activities of employees of the University has been expressly upheld by many court decisions.

For example, the California Supreme Court confirmed in 2005 that The Regents have quasi-legislative powers and may adopt policies and procedures which have the status of regulations. *Campell v. The Regents of the University of California*, 35 Cal. 4th 311, 25 Cal RPTR. 3d. 320 (2005). That case involved a lawsuit brought by a University employee for alleged improper employment discrimination as a result of whistle blower claims made by the employee. The Supreme Court upheld the dismissal of the employee’s claim for failure to exhaust administrative appeal rights established by the University Policy and Procedures for Reporting Improper Governmental Activities and Protection Against Retaliation for Reporting Improper Activities. Although a state statute created a cause of action protecting whistle blowers and did not impose an requirement that an employee exhaust administrative remedies, the Supreme Court held that the Policy and Procedure adopted by The Regents had the force of a statute or regulation. In reaching this conclusion, the Supreme Court affirmed the broad authority of The Regents to govern the affairs of employees of the University:

“Because the present action involves the rights of a UCSF employee, we should note the Regents’ constitutional status. The California Constitution establishes the Regents as a “public

trust...with full powers of organization and government. (Cal Const. art. IX, Sec. 9, subd. (a)). We have observed that “Article IX, section 9, grants the Regents broad powers to organize and govern the university and limits the Legislature’s power to regulate either the university or the Regents. This contrasts with the comprehensive power of regulation the Legislature possesses over other state agencies.” (*San Francisco Labor Council v. University of California (1980)*, 26 Cal. 3d. 785, 788....This grant of constitutional power to the University includes the grant of quasi-judicial powers, a view that is generally accepted in our jurisprudence. (citations omitted).

The Regents may also exercise quasi-legislative powers, subject to legislative regulation. Indeed, “policies established by the Regents as matters of internal regulation may enjoy a status equivalent to that of state statutes.” (*Regents of the University of California v. City of Santa Monica (1978)* 77 Cal. App, 3d 130, 135....The authority granted the Regents includes “full powers of organization and government, subject only to such legislative control as may be necessary to insure compliance with the terms of the endowment of the University and the security of its funds.” *Goldberg v. Regents of University of California (1967)* 248 Cal. App. 2d 867, 874. Thus, “the Regents have been characterized as ‘a branch of the state itself’ (citation omitted) or ‘a statewide administrative agency’ (citation omitted) (*Regents of the University of California v. City of Santa Monica, supra*, 77 Cal. App. 3d at p. 135.” 35 Cal. 4th at 320-321.

In view of this lengthy and comprehensive summary of the broad authority conferred upon The Regents by the California Constitution, it is beyond doubt that The Regents have the authority to adopt binding rules, regulations, and policies and procedures imposing environmental, health and safety standards applicable to students, faculty and employees of the University and facilities located on campus. In addition, the Regents have made a general delegation of authority from The Regents to the President and to the Chancellors to manage the day to day affairs of the University and affairs on campus. The sources of this authority are the Standing Orders of the Regents which delegate authority from The Regents. In particular, Standing Order 100.6, confers broad administrative authority to the Chancellors to govern the day to day affairs of the campus. The relevant provisions of Standing Order 100.6 provides as follows:

“100.6 (a). Duties of the Chancellors.

- (a) The Chancellor of each campus shall be the chief campus officer thereof and shall be the executive head of all activities on that campus, except as herein otherwise provided and excepting such activities as may be designated by the Board as University-wide activities; and with reference to these on a particular campus the Chancellor shall be consulted. In all matters within the Chancellor’s jurisdiction, the Chancellor shall have administrative authority within the budgeted items for the campus and in accordance with policies for the University as determined by the President of the University. The Chancellor shall be responsible for the organization and operation of the campus, its internal administration, and its discipline; and decisions made by the Chancellor in accordance with the provisions of the budget and with policies established by the Board of the President of the University shall be final. “

In light of this delegation, it is clear that The Regents have authority to adopt and enforce health

and safety standards applicable to employees and students of the University, and that the campus Chancellors have been delegated authority to develop policies and procedures for the administration of the campus. An early decision addressing the authority of the University to adopt and enforce health and safety rules and regulations is *Wallace v. The Regents of the University of California*, 75 Cal. App. 274 (1925). That case involved a policy adopted by The Regents which required all students at the University to have been vaccinated against smallpox and the refusal of the University to enroll a student which refused to be vaccinated due to religious beliefs. The court upheld the right of The Regents to adopt health and safety standards, specifically noting the unique authority granted by the State Constitution to The Regents:

“It was also held that by section 9 of article IX of the state constitution the University of California was raised to the dignity of a constitutional department or function of the state government, with the investment of power and discretion in the management of its affairs, including the power to make all reasonable rules and regulations as might tend to prevent the introduction and spread of contagious disorders amongst the student body; and that a rule requiring vaccination as a prerequisite to the admission of a student was, in the absence of legislation lawfully limiting the exercise of that power, a reasonable one.” 75 Cal. App at 277.

In summary, in light of the constitutional grant of authority to The Regents by Art. IX, sec. 9 of the State Constitution, it is clear that The Regents have the legal power to adopt rules and regulations or policies and procedures governing environmental, health and safety on campus. It is also clear that the authority to adopt administer the affairs of campus has been delegated by The Regents to the Chancellors. Under this delegation of authority, the Chancellors have legal authority to adopt policies and procedures regulating environmental health and safety on campus.